

§ 204.1

204.6 Collections.

204.7 Legislative proposals.

204.8 Benefits for which no fee shall be assessed.

204.9 Schedule of fees and rates.

AUTHORITY: 31 U.S.C. 9701.

SOURCE: 73 FR 23954, May 1, 2008, unless otherwise noted.

§ 204.1 Purpose.

This part implements the DoD program under Title 31, United States Code, section 9701 and OMB Circular No. A-25, “User Charges,” to establish appropriate fees for authorized services supplied by DoD organizations.

§ 204.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, and the Defense Agencies (hereafter referred to collectively as “DoD Components”). None of the provisions in this part should be construed as giving authority for the sale or lease of property, or the rendering of special services. Actions to convey such special benefits must be authorized by separate authority. This user fee policy is applicable except when other statutes or directives specifically direct other practices or procedures.

§ 204.3 Policy and procedures.

(a) *General.* It is DoD policy not to compete unfairly with available commercial facilities in providing special services or in the sale or lease of property to private parties and agencies outside the Federal Government. However, when a service (or privilege) provides special benefits to an identifiable recipient, beyond those that accrue to the general public, a fee shall be imposed to recover the full cost to the Federal Government for providing the special benefit (or the market price) except as otherwise approved by the Under Secretary of Defense (Comptroller) (USD(C)) and authorized by the Director of OMB. A special benefit will be considered to accrue, and a user fee shall be imposed, when a Government service:

(1) Enables the beneficiary to obtain more immediate or substantial gain or values (which may or may not be meas-

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urable in monetary terms) than those which accrue to the general public (e.g., receiving a patent, insurance, or guarantee provision, or a license to carry on a specific activity or business or various kinds of public land use); or

(2) Provides business stability or contributes to public confidence in the business activity of the beneficiary (e.g., insuring deposits in commercial banks), or

(3) Is performed at the request of or for the convenience of the recipient, and is beyond the services regularly received by other members of the same industry or group or by the general public (e.g., receiving a passport, visa, airman’s certificate, or a Custom’s inspection after regular duty hours).

(b) *Costing.* (1) Except as provided in § 204.3(c) and § 204.8, a user fee shall be imposed to recover the full cost to the Federal Government of providing the service, resource, or good when the Government is acting in its capacity as sovereign.

(2) User fees shall be based on market prices (as defined in § 204.5(a)(4)) when the Government is not acting in its capacity as sovereign and is leasing or selling goods or resources, or is providing a service (e.g., leasing space in federally owned buildings). Under these business-type conditions, user fees need not be limited to the recovery of full cost and may yield net revenues.

(3) User fees will be collected in advance of, or simultaneously with, the rendering of services unless appropriations and authority are provided in advance to allow reimbursable services.

(4) Whenever possible, fees should be set as rates rather than fixed dollar amounts in order to adjust for changes in costs to the Government or changes in market prices of the good, resource, or service provided.

(c) *Exclusions.* (1) The provisions of this part do not apply when other statutes or DoD issuances require different practices or procedures, such as for:

(i) Morale, welfare, and recreation services to military personnel and civilian employees of the Department of Defense and other services provided according to § 204.8.